IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.153 OF 2006
CUSTODY PETITION NO.17542 OF 2006
IN
FAMILY COURT APPEAL NO.137 OF 2004
WITH
FAMILY COURT APPEAL NO.138 OF 2004

Smt.Sheela Atul Vyas ...Applicant.

Vs.

Atul Prabhulal Vyas ...Respondent.

Smt.Sheela A. Vyas applicant-in-person.

Ms.Paranjpe for the Respondent.

CORAM : SMT.RANJANA DESAI AND SMT.V.K.TAHILRAMANI,JJ.

DATED : 22ND AUGUST, 2006.

P.C.:-

. On 9th August, 2006 Division Bench of this court, to which one of us (Smt.Ranjana Desai, J.) was a party, passed a detailed order. Considering the wishes of child Medha, as a temporary arrangement, it was directed that child Medha should stay with the respondent father. However, on every Friday evening the applicant-mother was allowed to take Medha to her house and she was to bring her back to the respondent-father’s house on Sunday evening by 7.00 p.m..

. On 21.8.2006, the applicant-mother moved this Court stating that child Medha is not willing to stay with her father and, therefore, the order dated 9th August, 2006 may be modified. We had therefore directed the office to place the matter high on board today. Today, in the court the applicant-mother and respondent-father are present. Mrs.Paranjape learned counsel for the respondent-father is also present.

. We may note that when the matter was moved in our chamber yesterday at 3:00 p.m. by the mother of child Medha, Medha was present and she told us that on 9th August, 2006 she had consented to stay with her father fearing that since contempt of this court was alleged against him, he may be put behind bars. Medha expressed that she does not want to stay with her father any longer. She further requested that her father may not be put in jail.

. We have heard Ms.Paranjape learned counsel for the respondent. In the peculiar facts and circumstances of this case, in our opinion, the order dated 9th August, 2006 needs to be modified. We feel that it would be in the interest of child Medha that

she stays with her mother. Therefore, by consent of parties, the consent terms dated 26th April, 2002, filed in the family court at Bandra, Mumbai in petition No.D-129 of 2000 which were in operation prior to our order dated 9th August, 2006, are restored. The parties shall abide by the said consent terms. We, however, make it clear that respondent - father shall have access as per consent terms, only if child Medha is willing and subject to her convenience.

. So far as the school vacations are concerned, ideally the vacations should be shared equally by the parents as per the convenience of child-Medha. Child Medha should stay for half of the vacation period with her father. This order is again subject to her convenience and wishes.

. Needless to say that child should be now admitted back to Swadhyay Bhavan School at Matunga.

. Civil application is disposed of.

[SMT.RANJANA DESAI,J.]

[SMT.V.K.TAHILRAMANI,J.]